

REMARKS

Claims 1-34 have been previously canceled, claims 36, 45, 47, 48, and 53 are currently amended, and no new claims are added by way of this response. Thus, claims 35-54 are pending and presented for examination. Applicant respectfully requests reconsideration and allowance of the pending claims in view of the foregoing amendments and the following remarks.

Response To Double Patenting Rejections:

The Examiner rejected claims 30-39 and 42-47 under the judicially created doctrine of provisional obviousness-type double patenting. The Examiner indicated that although the subject matter of these claims is not identical to claims 1-9 of U.S. Patent No. 7,402,335. Applicant submits the accompanying Terminal Disclaimer in accordance with 37 C.F.R. §§ 1.321(c) and 3.73(b) in order to overcome the double patenting rejection.

Response To Rejections Under Section 112

Claims 35-54 stand rejected under 35 U.S.C. § 112, second paragraph, the Examiner contending these claims as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Applicant has amended claims 36, 45, 47, 48, and 53 to clearly define the limitations to overcome the 112 rejections.

For example, Applicant has amended claim 36 as “wherein the pore walls of adjacent pores intersect at wall section surfaces...” (paragraph [0041]) and claim 53 as “wherein the porous layer is produced together with the substrate in a single step” (paragraph [0039]).

In view of above, Applicant respectfully submits that claims 35-54 are patentable and respectfully requests the Examiner withdraws the Section 112 rejections.

Requests for Allowance of Claims 48-54

In the Office Action the Examiner indicated that claims 48-54 would be allowable if rewritten or amended to overcome the 112 rejections.

In connection with the Section 112 rejections, Applicant has amended independent claims 48 and 53 to overcome the 112 rejections. Applicant respectfully submits that claims 48 and 53

in condition for allowance as well as claims 49-52 and 54 which depend thereon. Applicant respectfully requests allowance of claims 48-54.

Conclusion

For the foregoing reasons, it is respectfully submitted that rejections set forth in the outstanding Office Action are inapplicable to the present claims and specification. Accordingly, Applicant respectfully requests that the Examiner reconsider the rejections and timely pass the application to allowance. Please grant any extension of time required to enter this paper. The commissioner is hereby authorized to charge any appropriate fees due in connection with this paper, including the fees specified in 37 C.F.R. §§ 1.16 (c), 1.17(a)(1) and 1.20(d), or credit any overpayments to Deposit Account No. 19-2179.

Respectfully submitted,

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